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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 -vs-

10 JOSEPH ANDERSON EVANS, SR.,
a/k/a Roman Cenicer0s-Mora,
a/k/a Joseph A. Shippentower,

11 Defendant.
12

NO. CR-10-2121-WFN-1

ORDER SETTING NEW TRIAL

13 A jury trial was held in the above captioned case from June 20 through June 21, 2011.
14 The Defendant, who is in custody, was present and represented by Michael Lynch; Assisted
15 United States Attorney Shawn Anderson represented the Government. At the end of the case,
16 and outside the presence of the jury (which had begun deliberations), defense counsel moved
17 for a mistrial. Defense counsel's grounds for a mistrial were that during the Government's
18 closing argument, Mr. Anderson stated the 1990 conviction was evidence of guilt, thereby
19 lessening the Government's burden. The oral motion was denied for the reasons stated on
20 the record.

21 During deliberations, the jury submitted two questions to the Court. The second
22 question indicated that the jury was deadlocked. The jury returned to the courtroom and was
23 questioned by the Court. Each of the jurors indicated that further deliberations would not
24 result in a verdict. The jury was excused and Defendant made an oral motion for a mistrial.
25 The Government made no objection and the Court granted the motion. The Court proposed
26 Monday, June 27, 2011, for retrial and counsel has agreed.

1 This Order is entered to memorialize and supplement the oral rulings of the Court.
2 Accordingly,

3 **IT IS ORDERED:**

4 1. Defendant's first oral motion for a mistrial is **DENIED** for the reasons stated on
5 the record.

6 2. Defendant's second oral motion for a mistrial is **GRANTED** for the reasons stated
7 on the record.

8 3. The speedy trial clock in this case is **RESET** seventy (70) days from the date of this
9 Order. 18 U.S.C. § 3161(e).

10 4. A jury trial is **SET for June 27, 2011, at 10:30 a.m.**, in Yakima, Washington.

11 5. A final pretrial conference and motion hearing is **SET for June 27, 2011, at 10:00**
12 **a.m.**, in Yakima, Washington.

13 The District Court Executive is directed to file this Order and provide copies to
14 counsel.

15 **DATED** this 22nd day of June, 2011.

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18 06-21

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE